

# The Gazette of India



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## NOTICE

The undermentioned Gazettes of India Extraordinary were published during the week ending the 27th May, 1952:—

Issue No.	No. and Date	Issued by	Subject
84	S. R. O. 895, dated the 19th May 1952.	Ministry of Commerce and Industry.	Amendment made in the Notification No. S. R. O. 759, dated the 21st May 1952.
85	S. R. O. 896, dated the 20th May 1952.	Ditto.	The Cotton Seed Order, 1952.
	S. R. O. 897, dated the 20th May 1952.	Ditto.	Amendments made in the Oilseeds (Forward Contracts Prohibition) Order, 1943.
	S. R. O. 898, dated the 20th May 1952.	Ditto.	Amendments made in the Vegetable Oils and Oilseeds (Forward Contracts Prohibition) Order, 1944.
	S. R. O. 899, dated the 20th May 1952.	Ditto.	Amendments made in the Spices (Forward Contracts Prohibition) Order, 1944.
	S. R. O. 900, dated the 20th May 1952.	Ditto.	The rates of all classes of oilseeds in any part B States at the close of business on 22nd May 1952 will be the market rates.
	S. R. O. 901, dated the 20th May 1952.	Ditto.	The rates of all Oils in any part B States at the close of business on 22nd May 1952 will be the market rates.
	S. R. O. 902, dated the 20th May 1952.	Ditto.	The rates of all Spices in any part B States at the close of business on 22nd May 1952 will be the Market rates.
86	S. R. O. 903, dated the 21st May 1952.	Ministry of Finance (Rev. Divn.)	Exemption of Zip-fasteners with metal teeth from the additional duties of customs.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Inlets should be submitted so as to reach the Manager within ten days of the date of issue of this Gazette.

## PART II—Section 3

### Statutory Rules and Orders issued by the Ministries of the Government of India (other than the Ministry of Defence) and Central Authorities (other than the Chief Commissioners).

#### MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 24th May 1952

**S.R.O. 939.**—In exercise of the powers conferred by Section 4 of the Foreign Jurisdiction Act, 1947 (XLVII of 1947), and all other powers enabling it in that behalf, the Central Government hereby directs that the following amendment shall be made in the Chandernagore (Application of Laws) Order, 1951, namely:—

To the entries in the Schedule annexed to the said Order, the following entry shall be added, namely:—

"1908 The Indian Limitation Act. In sub-section (2) of section 29 for the words "special or local law" wherever they occur, substitute the words "Special law or local French law".

[No. 220/Eur.I.]

S. GUPTA, Under Secy.

#### MINISTRY OF STATES

New Delhi, the 19th May 1952

**S.R.O. 940.**—In exercise of the powers conferred by Entry 3(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government is pleased to specify Her Highness Maharani Gita Kumariba Sahiba of Kishengarh, a member of the family of the Ruler of Kishengarh for the purposes of that entry.

[No. 125-D.]

H. C. MAHINDROO, Under Secy.

#### MINISTRY OF FINANCE (Department of Economic Affairs)

New Delhi, the 26th May 1952

**S.R.O. 941.**—In exercise of the powers conferred by section 11 of the High Denomination Bank Notes (Demonetisation) Ordinance, 1946 (III of 1946), the Central Government hereby makes the following amendment to the High Denomination Bank Notes (Demonetisation) Rules, published with the notification of the Government of India in the late Finance Department, No. D-585-F.III/46, dated the 26th January, 1946, namely:—

After rule 9 of the said Rules, the following rule shall be added, namely:—

"10. *Disposal of High Denomination Bank Notes received by the Government of India and the Reserve Bank of India.*—All high denomination bank notes in respect of which claims for exchange value have been refused and all high denomination bank notes received by the Central Government or the Reserve Bank, otherwise than for exchange shall be retained by the Central Government or the Reserve Bank, as the case may be. Notes retained under the provisions of this rule may be disposed of in such manner as the Central Government deems fit."

[No. F.8(18)-F.I/51.]

S. K. SEN, Dy. Secy.

## INSURANCE

New Delhi, the 26th May 1952

**S.R.O. 942.**—In pursuance of the provisions of sub-section (2) of section 64G of the Insurance Act, 1938 (IV of 1938), the Central Government hereby nominates Mr. H. C. Gutt of Messrs Gutt, Saher and Gandhi, Stock, Share, Bullion, Exchange and Finance Brokers, Bombay, to fill the casual vacancy in the Executive Committee of Life Insurance Council of the Insurance Association of India, caused by the resignation of Mr. M. L. Tannan.

[No. 105-IF(19)/52.]

B. K. KAUL, Dy. Secy.

## MINISTRY OF COMMERCE AND INDUSTRY

New Delhi, the 21st May 1952

**S.R.O. 943.**—Under rule 9 of the Central Advisory Council (Procedural) Rules, 1952 made under the Industries (Development and Regulation) Act, 1951 (LXV of 1951), Shri Ranen Roy, Kalyani Cabin, P. O. Muzaffarpur, Bihar, was appointed by the Central Government as a substitute to take the place of Shri Jatin Chakravarty, a Member of the Central Advisory Council, at the meeting of the Council held on the 10th May 1952.

[IP-A(3)(4).]

C. R. NATESAN, Dy. Secy.

New Delhi, the 27th May 1952

**S.R.O. 944.**—In exercise of the powers conferred by Section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government hereby directs that the following further amendment shall be made in the Newsprint Control Order, 1951, namely:

In the said Order, for clause 5 the following clause shall be substituted, namely:—

“5. Weekly quota of pages.

- (1) The total number of pages, in all the issues of a daily newspaper published during a week, or in a weekly newspaper, shall not exceed the quota assigned in schedule I to a newspaper of that class and price.
- (2) For the purposes of this clause, a daily and a weekly newspaper shall be classified as Class A, Class B, Class C, Class D or Class E according as the area of the page of the newspaper including margins and other spaces clear of print is 432 square inches or less than 432 square inches but not less than 336 square inches, less than 336 square inches but not less than 200 square inches, less than 200 square inches but not less than 150 square inches, less than 150 square inches but not less than 75 square inches, or is less than 75 square inches.

*Explanation.*—Where the page of a newspaper varies in size from time to time, the area of the page of the newspaper for the purpose of this clause shall be the area of the largest page:

Provided that where a weekly edition of a daily newspaper of any class is priced higher than the daily issue of such a newspaper, the weekly edition shall contain the number of pages allotted to a weekly newspaper of that price and the corresponding class, and for the purpose of calculating the quota for the remaining issues of such a newspaper it shall be treated as a daily newspaper of the corresponding class published on 6 days:

Provided further that the total number of pages in all the issues of such a newspaper published during a week (including the higher priced issue) shall not exceed—

- (a) if the newspaper belongs to Class A, 74 pages;
- (b) if the newspaper belongs to Class B, 112 pages;

- (c) if the newspaper belongs to Class C, 148 pages;
- (d) if the newspaper belongs to Class D, 222 pages; and
- (e) if the newspaper belongs to Class E, 444 pages."

The Government of India, Ministry of Commerce and Industry Notification No. S.R.O. 859, dated the 10th May, 1952 published in the Gazette of India, dated the 17th May, 1952 is cancelled.

(Amendment No. 3 of 1952.)

[No. CI-37(2)/52.]

B. B. SAKSENA, Dy. Se

### ORDERS

New Delhi, the 20th May 1952

**S.R.O. 945.**—In exercise of the powers conferred by section 4 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), and in partial modification of the notification of the Government of India in the late Ministry of Industry and Supply No. S.R.O. 503, dated the 2nd September 1950, in so far as it relates to the fixation of maximum price of Soda Ash the Central Government hereby fixes the maximum price as shown in the Schedule as annexed hereto in respect of 992 cwt. of Soda Ash imported from France per s.s. "Magellan" during the month of February 1952 by the Associated Agencies (Bombay), 47 Podar Chambers, Parsee Bazar Street, Fort, Bombay.

### SCHEDULE

Variety of Soda Ash	Maximum price that may be charged by the importer	Maximum price that may be charged by a distributor	Maximum price that may be charged by a wholesale dealer	Maximum price that may be charged by a retail dealer
(1)	(2)	(3)	(4)	(5)
Soda Ash	Rs. 21.4-0 per cwt. The price specified in Column 2 PLUS (a) actual railway freight by goods train or actual transport charges by sea from Madras to the place of destination, and (b) handling charges not exceeding annas eight per cwt.	The price specified in Column 2 PLUS (a) actual railway freight by goods train or actual transport charges by sea from Madras to the place of destination, and (b) handling charges not exceeding annas eight per cwt.	The price specified in column 3 PLUS a margin not exceeding annas eight per cwt.	The price specified in column 4 PLUS a margin not exceeding annas eight per cwt. Rs. 1.12-0 per cwt.

NOTE.—These prices are exclusive of local taxes such as Sales Tax, Octroi and other local taxes which may be charged extra.

[No. PC-7(7)/52.]

**S.R.O. 946.**—In exercise of the powers conferred by section 4 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), and in partial modification of the notification of the Government of India in the late Ministry of Industry and Supply No. S. R. O. 503, dated the 2nd September 1950, in so far as it relates to the fixation of maximum price of Caustic soda, the Central Government hereby fixes the following Schedule of maximum price in respect of 762 cwt. (gross) of caustic soda imported from the United States of America per s.s. "Jalakala" during the month of April 1952 by Messrs. Jiva Kuka and Company, Princes Street, Bombay 2.

## SCHEDULE

(1)	(2)	(3)	(4)	(5)
Variety of Caustic soda	Maximum price that may be charged by the importer	Maximum price that may be charged by a distributor	Maximum price that may be charged by a wholesale dealer	Maximum price that may be charged by a retail dealer
Caustic Soda (Flake)	Rs. 1-12-0 per cwt. ex-godown/F.O.R. Bombay.	The price specified in column 2 PLUS (a) actual railway freight by goods train or actual transport charges by sea from Bombay to the place of destination, and (b) handling charges not exceeding annas eight per cwt.	The price specified in column 3 PLUS a margin not exceeding annas eight per cwt.	The price specified in column 4 PLUS a margin not exceeding Rs. 1-12-0 per cwt.

NOTE.—These prices are exclusive of local taxes such as Sales Tax, Octroi and other local taxes which may be charged extra.

[No. PC-7(8)/52.]

New Delhi, the 21st May 1952

S.R.O. 947.—In exercise of the powers conferred by section 4 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), and in partial modification of the notification of the Government of India in the late Ministry of Industry and Supply No. S. R. O. 503, dated the 2nd September 1950, in so far as it relates to the fixation of maximum price of soda ash, the Central Government hereby fixes the maximum price as shown in the Schedule annexed hereto in respect of 496 cwts. and 14 lbs. of soda ash imported from France per s. s. "Magellan" during the month of February 1952 by Messrs. Associated Agencies (Bombay), 47 Podar Chambers, Parsee Bazar Street, Fort Bombay.

## SCHEDULE

(1)	(2)	(3)	(4)	(5)
Variety of soda ash	Maximum price that may be charged by the importer	Maximum price that may be charged by a distributor	Maximum price that may be charged by a wholesale dealer	Maximum price that may be charged by a retail dealer
Soda ash	Rs. 22-12-4 per cwt. Ex-godown/F. O.R. Bombay.	The price specified in column 2 PLUS actual railway freight by goods train or actual transport charges by sea from Bombay to the place of destination, and (b) handling charges not exceeding annas eight per cwt.	The price specified in column 3 PLUS a margin not exceeding annas eight per cwt.	The price specified in column 4 PLUS a margin not exceeding Rs. 1-12-0 per cwt.

NOTE.—These prices are exclusive of local taxes such as Sales Tax, Octroi and other local taxes which may be charged extra.

[No. PC-7(7)/52.]

**S.R.O. 948.**—In exercise of the powers conferred by section 4 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), and in partial modification of the notification of the Government of India in the late Ministry of Industry and Supply No. S. R. O. 503, dated the 2nd September 1950, in so far as it relates to the fixation of maximum price of soda ash, the Central Government hereby fixes the maximum price as shown in the Schedule annexed hereto in respect of 2973 cwt. of soda ash imported from France per s. s. 'Magellan' during the month of February 1952 by Messrs. Associated Agencies (Bombay) 47 Podar Chambers, Parsee Bazar Street, Fort, Bombay.

#### SCHEDULE

(1)	(2)	(3)	(4)	(5)
Variety of soda ash	Maximum price that may be charged by the importer	Maximum price that may be charged by a distributor	Maximum price that may be charged by a wholesale dealer	Maximum price that may be charged by a retail dealer
Soda ash	Rs. 25-1-6 per cwt. Ex-godown/F.O.R. Bombay.	The price specified in Column 3 PLUS  (a) actual railway freight by goods train or actual transport charges by sea from Bombay to the place of destination, and  (b) handling charges not exceeding annas eight per cwt.	The price specified in Column 3 PLUS a margin not exceeding annas eight per cwt.	The price specified in Column 4 PLUS a margin not exceeding Rs. 1-12-0 per cwt.

**NOTE.**—These prices are exclusive of local taxes such as Sales Tax, Octroi and other local taxes which may be charged extra.

[No. PC-7(I)/52.]

New Delhi, the 23rd May 1952

**S.R.O. 949.**—In exercise of the powers conferred by Section 4 of the Supply and Prices of Goods Act, 1950, (LXX of 1950), and in partial modification of the notification of the Government of India in the late Ministry of Industry and Supply No. S.R.O. 503, dated the 2nd September 1950, in so far as it relates to the fixation of maximum price of soda ash, the Central Government hereby fixes the following Schedule of maximum price in respect of 728 cwt. (gross) of soda ash imported from the United States of America per s.s. 'Steel Surveyor' during the month of April, 1952, by Messrs. Ambia Dyestuff Corporation, 50 Essaji Street, Bombay 3.

**SCHEDULE**

(1)	(2)	(3)	(4)	(5)
Variety of soda ash	Maximum price that may be charged by the importer	Maximum price that may be charged by a distributor	Maximum price that may be charged by a wholesale dealer	Maximum price that may be charged by a retail dealer.
Soda Ash	Rs. 24-12-0 per cwt. Ex-godown/ F.O.R. Bombay.	The price specified in column 2 PLUS (a) actual railway freight by goods train or factual transport charges by sea from Bombay to the place of destination, and (b) handling charges not exceeding annas eight per cwt.	The price specified in column 3 PLUS a margin not exceeding annas eight per cwt.	The price specified in column 4 PLUS a margin not exceeding Rs. 1-12-0 per cwt.

**NOTE.**—These prices are exclusive of local taxes such as Sales Tax, Octroi and other local taxes which may be charged extra.

[No. PC-7(14)/52.]

**S.R.O. 950.**—In exercise of the powers conferred by Section 4 of the Supply and Prices of Goods Act, 1950, (LXX of 1950), and in partial modification of the notification of the Government of India in the late Ministry of Industry and Supply No. S.R.O. 503, dated the 2nd September 1950, in so far as it relates to the fixation of maximum price of soda ash, the Central Government hereby fixes the maximum price as shown in the Schedule annexed hereto in respect of 714 cwt., and 32 lbs. of soda ash imported from the United States of America per s.s. 'Express' during the month of March 1952 by Messrs. Sonthalia and Company, 71, Cross Street, Calcutta.

**SCHEDULE**

(1)	(2)	(3)	(4)	(5)
Variety of soda ash	Maximum price that may be charged by the importer	Maximum price that may be charged by a distributor	Maximum price that may be charged by a wholesale dealer	Maximum price that may be charged by a retail dealer.
Soda ash	Rs. 24-12-0 per cwt. Ex-godown/F.O.R. Calcutta.	The price specified in column 2 PLUS (a) actual railway freight by goods train or factual transport charges by sea from Calcutta to the place of destination, and (b) handling charges not exceeding annas eight per cwt.	The price specified in column 3 PLUS a margin not exceeding annas eight per cwt.	The price specified in column 4 PLUS a margin not exceeding Rs. 1-12-0 per cwt.

**NOTE.**—These prices are exclusive of local taxes such as Sales Tax, Octroi and other local taxes which may be charged extra.

[No. PC-7(20)/52.]

**S.R.O. 951.**—In exercise of the powers conferred by Section 4 of the Supply and Prices of Goods Act, 1950, (LXX of 1950), and in partial modification of the notification of the Government of India in the late Ministry of Industry and Supply No. S.R.O. 503, dated the 2nd September 1950, in so far as it relates to the fixation of maximum price of caustic soda, the Central Government hereby fixes the following Schedule of maximum price in respect of 515 cwts. (gross) of caustic soda imported from the United States of America per s.s. "Steel Surveyor" during the month of April 1952 by Messrs. A. H. Gandhi, New Bansilal Mansion, Bruce Street, Fort, Bombay.

**Schedule**

(1)	(2)	(3)	(4)	(4)
Variety of Caustic Soda	Maximum price that may be charged by the importer	Maximum price that may be charged by a distributor	Maximum price that may be charged by a wholesale dealer	Maximum price that may be charged by a retail dealer
Caustic Soda	Rs. 40-1-0 per cwt. Ex-godown/ F.O.R. Bombay.	The price specified in Column 2 <i>PLUS</i> (a) actual railway freight by goods train or actual transport charges by sea from Bombay to the place of destination, and (b) handling charges not exceeding annas eight per cwt.	The price specified in Column 3 <i>PLUS</i> a margin not exceeding annas eight per cwt.	The price specified in Column 4 <i>PLUS</i> a margin not exceeding Rs. 1-12-0 per cwt. <sup>2</sup>

**NOTE.**—These prices are exclusive of local taxes, such as Sales Tax, Octroi and other local taxes which may be charged extra.

[No. PC-7(26)/52.]

**S.R.O. 952.**—In exercise of the powers conferred by Section 4 of the Supply and Prices of Goods Act, 1950, (LXX of 1950), and in partial modification of the notification of the Government of India in the late Ministry of Industry and Supply No. S.R.O. 503, dated the 2nd September 1950, in so far as it relates to the fixation of maximum price of soda ash, the Central Government hereby fixes the maximum price as shown in the Schedule annexed hereto in respect of 1582 cwts. of soda ash imported from France per s.s. 'Magallen' during the month of February 1952 by the Associated Agencies (Bombay) 47 Poddar Chambers, Parsee Bazar Street, Bombay.

## SCHEDULE

1	2	3	4	5
Variety of Soda Ash	Maximum price that may be charged by the importer	Maximum price that may be charged by a distributor	Maximum price that may be charged by a wholesale dealer	Maximum price that may be charged by a retail dealer

Soda ash.      Rs. 20-8-0 per ewt. ex-go- down/F. O. R. Bombay.      The price specified in column 2 PLUS (a) actual railway freight by goods train or actual transport charges by sea from Bombay to the place of destination, and (b) handling charges not exceeding annas eight per ewt.      The price specified in column 3 PLUS a margin not exceeding annas eight per ewt.      The price specified in column 4 PLUS a margin not exceeding annas eight per ewt.      The price specified in column 5 PLUS a margin not exceeding Rs. 1-12-0 per ewt.

Note.—These prices are exclusive of local taxes such as Sales Tax, Octroi and other local taxes which may be charged extra.

[No. PC-7(7)/52.]

**S.R.O. 953.**—In exercise of the powers conferred by section 4 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), and in partial modification of the notification of the Government of India in the late Ministry of Industry and Supply No. S.R.O. 503, dated the 2nd September 1950, in so far as it relates to the fixation of maximum price of soda ash, the Central Government hereby fixes the maximum price as shown in the Schedule annexed hereto in respect of 994 cwts. of soda ash imported from France per s. s. 'Magellan' during the month of February 1952, by Messrs. Associated Agencies (Bombay), 47, Poddar Chambers, Parsee Bazar Street, Fort, Bombay.

## SCHEDULE

(1)	(2)	(3)	(4)	(5)
Variety of Soda Ash	Maximum price that may be charged by the importer	Maximum price that may be charged by a distributor	Maximum price that may be charged by a wholesale dealer	Maximum price that may be charged by a retail dealer

Soda Ash      Rs. 24-0-0 per ewt. ex-go- down/F.O.R. Bombay.      The price specified in column 2 PLUS (a) actual railway freight by goods train or actual transport charges by sea from Bombay to the place of destination, and (b) handling charges not exceeding annas eight per ewt.      The price specified in column 3 PLUS a margin not exceeding annas eight per ewt.      The price specified in column 4 PLUS a margin not exceeding Rs. 1-12-0 per ewt.

Note.—These prices are exclusive of local taxes such Sales Tax, Octroi and other local taxes which may be charged extra.

[No. PC-7(7)/52.]

New Delhi, the 27th May 1952

**S.R.O. 954.**—In exercise of the powers conferred by section 4 of the Supply and Prices of Goods Act, 1950 (LXX of 1950) and in partial modification of the notification of the Government of India in the late Ministry of Industry and Supply No. S.R.O. 503, dated the 2nd September 1950, in so far as it relates to the fixation of maximum price of Soda Ash, the Central Government hereby fixes the following Schedule of maximum price in respect of 1817 cwts. of soda ash imported from the United States of America per s. s. "STEEL ARCHITECT" during the month of March 1952 by Messrs. Pannalall Kishanlall, 18, Amratolla Street, Calcutta.

SCHEDULE

(1)	(2)	(3)	(4)	(5)
Variety of Soda ash	Maximum price that may be charged by the importer	Maximum price that may be charged by a distributor	Maximum price that may be charged by a wholesale dealer	Maximum price that may be charged by a retail dealer

Soda ash      Rs. 25-11-0 per cwt. Ex-godown/FOR, Calcutta      The price specified in Col. 2 PLUS (a) actual railway freight by goods train or actual transport charges by sea from Calcutta to the place of destination, and (b) handling charges not exceeding annas eight per cwt.      The price specified in column 3 PLUS a margin not exceeding annas eight per cwt.      The price specified in column 4 PLUS a margin not exceeding Rs. 1-12-0 per cwt.

**Note.**—These prices are exclusive of local taxes such as Sales Tax, Octroi and other local taxes which may be charged extra.

[No. PC-7(23)/52.]

P. S. SUNDARAM, Under Secy

MINISTRY OF FOOD AND AGRICULTURE

(Agriculture)

New Delhi, the 22nd May 1952

**S.R.O. 955.**—In pursuance of the provisions of sub-section (a) of section 4 of the Indian Central Oilseeds Committee Act (IX of 1946), the Federation of Indian Chambers of Commerce and Industry have renominated Shri R. L. Nopany to be a member of the Indian Central Oilseeds Committee to represent the Federation of Indian Chambers of Commerce and Industry with effect from 1st April, 1952.

[No. F.5-16/52.Com.II.]

**S.R.O. 956.**—In pursuance of the provisions of sub-section (a) of section 4 of the Indian Central Oilseeds Committee Act (IX of 1946), the Government of Madhya Pradesh have nominated Shri S. S. Mushran, M.L.A., to be member of the Indian Central Oilseeds Committee to represent growers on the Committee with effect from 1st April, 1952.

[No. F.5-16/52.Com.II.]

S. K. MIRCHANDANI, Under Secy.

New Delhi, the 31st May 1952

**S.R.O. 957.**—In exercise of the powers conferred by clause 2(a) of Vegetable Oil Products Control Order, 1947 as subsequently amended vide Ministry of Agriculture Notification No. 2-VP(2)/48, dated the 9th October, 1948, the Vegetable Oil Products Controller for India hereby directs that the following amendment shall be made in Ministry of Food and Agriculture Notification No. S.R.O. 2039, dated the 22nd December, 1951 *viz.*—

After the word 'Bombay' in the Notification the word 'State' shall be added.

[No. 2-VP(2)/52.]

P. A. GOPALAKRISHNAN,  
Vegetable Oil Products Controller for India.

### MINISTRY OF COMMUNICATIONS

New Delhi, the 22nd May 1952

**S.R.O. 958.**—In pursuance of sub-rule (2) of rule 135 of the Indian Aircraft Rules, 1937, the Central Government is pleased to appoint Shri S. S. Vasist, Member (Transportation), Railway Board, to be a member of the Air Transport Licensing Board.

[No. 11-A/3-51.]

A. V. PAI, Secy.

### Posts and Telegraphs

New Delhi, the 26th May 1952

**S.R.O. 959.**—In exercise of the powers conferred by section 43 of the Indian Post Office Act, 1898 (VI of 1898), the Central Government hereby directs that the following further amendment shall be made in the Indian Post Office Rules, 1933, namely:—

For rule 125 of the said Rules, the following rule shall be substituted, namely:—

"125. If the payee of a money order cannot be found or if the payee refuses to take payment on presentation of the money order to him, the amount of the money order shall be returned at once to the remitter, free of charge:

Provided that if the payee while refusing to take payment on presentation of the money order to him, makes an application in writing to the post office of delivery for the detention of the money order for a period not exceeding seven days, the money order shall be detained in the post office for a period of seven days from the date of its presentation to the payee and if the payee fails to take payment of the money order from the post office within the said period of seven days, the money order shall be returned to the remitter on the first working day immediately following the expiry of the said period of seven days;

Provided further that the commission shall in no case be refunded."

[C-40-8/51.]

**S.R.O. 960.**—In exercise of the powers conferred by section 7 of the Indian Telegraph Act, 1885 (XIII of 1885), the Central Government hereby directs that the following further amendment shall be made in the Indian Telegraph Rules, 1951, namely:—

In the list of exchanges annexed to sub-rule (1) of rule 430 of the said Rules in item II after "Meerut" and "Surat", "Nagrispur" and "Takdah" respectively, shall be inserted.

[No. R.3-11/52.]

K. V. VENKATACHALAM, Dy. Secy.

## MINISTRY OF TRANSPORT

## PORTS

New Delhi, the 21st May 1952

**S.R.O. 961.**—The following draft of a further amendment to the rules regarding charges at the Port of Cochin for the hire of port craft, plant and appliances published with the notification of the former Government of Cochin, Public Works Department No. 132, dated the 26th April 1942 (13th Medam 1117), which it is proposed to make, in exercise of the powers conferred by clause (j) of sub-section (1) of section 6 of the Indian Ports Act, 1908 (XV of 1908), is published for the information of all persons likely to be affected thereby, and notice is hereby given that the draft will be taken into consideration on or after the 24th June 1952 as required by sub-section (2) of the said section.

Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government.

## Draft Amendment

In the said notification for rule 5 the following rule shall be substituted, namely:—

“5. For the purpose of these rules—

(a) “day” means the period from 6 a.m. to 6 p.m. and “night” means the period from 6 p.m. to 6 a.m.

(b) ‘Period of Hire’ means—

(i) in the case of floating craft the period from the time the floating craft leaves her moorings or previous duty whichever is later, to the time she returns to her moorings or attends subsequent duty, whichever is earlier;

(ii) in the case of port craft plant and appliances other than floating craft, from the time the plant is made available to the hirer till it is actually returned to the Port”.

[No. 6-II(6)/51-I.]

**S.R.O. 962.**—The following draft of a further amendment to the rules regarding the rates to be paid for the use at the Port of Cochin of the tug “Cochin” published with the notification of the former Government of Cochin, Public Works Department No. 30, dated the 9th November 1941 (24th Thulam 1117), which it is proposed to make, in exercise of the powers conferred by clause (j) of sub-section (1) of section 6 of the Indian Ports Act, 1908 (XV of 1908) is published for the information of all persons likely to be affected thereby, and notice is hereby given that the draft will be taken into consideration on or after the 24th June 1952 as required by sub-section (2) of the said section.

Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government.

## Draft Amendments

In the said rules—

1. To rule 2, the following proviso shall be added, namely:—

“Provided that charges at the rates prescribed for night hire shall be levied for every hour or part thereof which extends over both day and night”.

2. After rule 3, the following rule shall be added namely:—

“4. For the purpose of these rules—

(a) “Period of hire” means the period commencing from the time the tug leaves her moorings or previous duty whichever is later, to the time she returns to her moorings or attends subsequent duty whichever is earlier.

(b) “Day” means the period from 6 a.m. to 6 p.m. and “night” means the period from 6 p.m. to 6 a.m.”

[No. 6-P-II(6)/51-II.]

C. PARTHASARATHY, Under Secy.

PORTS

New Delhi, the 21st May 1952

**S.R.O. 963.**—In pursuance of Sub-section (3) of Section 6 of the Bombay Port Trust Act, 1879 (Bombay Act VI of 1879), the Central Government is pleased to publish the following return received from the Secretary, Bombay Chamber of Commerce, namely:—

*Return showing the name of the person elected by the Bombay Chamber of Commerce in accordance with the provisions of Section 31(2) of the Bombay Port Trust Act, 1879 to be a member of the Board of Trustees of the Port of Bombay during the absence on leave of Mr. R. W. Bullock.*

Date of election.	Name of person elected.
22nd April, 1952.	Mr. J. G. Milne, (of Messrs. Killick Nixon & Co. Ltd.).
[No. 8-P.I(91)/52.]	
S. N. CHIB, Dy. Secy.	

MINISTRY OF LABOUR

New Delhi, the 21st May 1952

**S.R.O. 964.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the award of the Industrial Tribunal (Punjab National Bank Dispute) in respect of the dispute between the Punjab National Bank Limited and its workmen.

INDUSTRIAL TRIBUNAL

(PUNJAB NATIONAL BANK DISPUTE) NEW DELHI

REFERENCE NO 2 OF 1951

Present:—

Shri A. N. Sen (Retired Judge of Calcutta High Court) Sole Member & Chairman.

Pt. Somesh Chandra, on behalf of the Punjab National Bank Ltd.,

Shri H. L. Puti, on behalf of the All India Punjab National Bank Employees' Federation.

AWARD

This is a reference under the Industrial Disputes Act and it relates to an industrial dispute between the Punjab National Bank Ltd., Delhi, its branches and its cashiers and contractor cashiers on the one hand and their workmen and the All India Punjab National Bank Employees' Federation, Delhi, the U.P. Banks Employees' Union and the Punjab National Bank Employees' Union, Bombay, representing such workmen on the other hand. The subject matter of the dispute referred is stated in the reference to be as follows:

SCHEDULE I.

Wrongful dismissal of 21 cashiers, assistant cashiers, Head cashiers and hundi-presenters of the Bombay branches of the Punjab National Bank Ltd., mentioned in Schedule II and their reinstatement.

2. In the event of any order for reinstatement, payment of wages and allowances etc. from the date of dismissal to the date of reinstatement.

3. Payment to 150 workmen mentioned in Schedule II appended to the order of the Government of India in the Ministry of Labour No. S.R.O. 1010, dated the

2nd July, 1951, of their pay and allowances etc. for that part of the month of April 1951, during which they worked before proceeding on strike.

SCHEDULE II

S. No.	Name of the workman	Department or Branch
1	Shri P. J. Mehta.	Elphinstone Circle.
2.	„ J. D. Ghoda.	„ „
3.	„ N. J. Oza.	„ „
4.	„ R. B. Rawal.	„ „
5.	„ R. M. Patel.	„ „
6.	„ Shrikant Shukla.	„ „
7.	„ Ramanand Tewari.	„ „
8.	„ Kamla shankar.	„ „
9.	„ Shivmuhurat Thakur.	„ „
10.	„ J. J. Rawal.	Zaveri Bazar.
11.	„ C. H. Shah.	„ „
12.	„ M. M. Shukla.	„ „
13.	„ N. B. Desai.	„ „
14.	„ Ramninch.	„ „
15.	„ P. N. Ghanekar.	Lalji Ramji Bldg.
16.	„ D. B. Bhatt.	„ „
17.	„ J. D. Ghode.	„ „
18.	„ L. S. Tonduklar.	„ „
19.	„ A. M. Mehta.	Lal Baug.
20.	„ N. J. Mehta.	Dadar (B.B.&C.I.)
21.	„ V. S. Mankame.	Mandvi Bhat Bazar.

2. On the 18th of March, 1952, when the hearing commenced the Federation and Union objected to the representation of the Bank in these proceedings by a legal practitioner. They relied upon the provisions of section 36 sub-section 4 of the Industrial Disputes Act. It is quite clear from the sub section mentioned above that where such an objection is raised by one party the other party cannot be represented by a legal practitioner. The Bank accordingly withdrew Shri Radhey Lal who was to have appeared for it, as he was a legal practitioner; but it submitted that there was nothing in the Act which could debar the Bank having a legal practitioner present in the room where the proceedings were being held so long as he did not represent the Bank or take part in the proceedings. On behalf of the Federation and the Union this course was objected to. In my opinion, this objection cannot prevail. The Act prohibits representation by a legal practitioner in certain circumstances but it nowhere states that a legal practitioner cannot be present in the room and watch the proceedings. I, therefore, gave permission to both parties to have their legal practitioners present in the room if they so desired, so long as the legal practitioners took no part in representing either of the parties in the proceedings. I passed a detailed order, being order No. 5, dated 8th March 1952, giving my reasons and I would refer to it as part of this award. The order is affixed to this award as Appendix "A" and shall form part of it. Since the order was passed no legal practitioner for either side appeared to represent the parties. The proceedings were carried on by Shri H. L. Puri on behalf of the Federation and by Shri Somesh Chandra, District Manager of the Punjab National Bank on behalf of the Bank. After a few hearings although Shri H. L. Puri appeared on behalf of the workmen the case was conducted on their behalf by Shri H. L. Parwana, who I understand is the President of the All India Punjab National Bank Employees' Federation, Delhi. Shri H. L. Puri again took charge of the proceedings on behalf of the workmen at the concluding stages.

3. The case of the workmen represented by the Federation as disclosed in their statement of claim may be summarised as follows: These 21 persons worked as cashiers, assistant cashiers and hundi-presenters in the Bharat Bank Ltd., in its various branches at Bombay. There was an agreement between the Bharat Bank and the Punjab National Bank Ltd., whereby the latter took over the assets, liabilities, business and offices of the Bharat Bank. This was on the 13th

of March, 1951. The Punjab National Bank also took over the staff of the Bharat Bank in its various branches at Bombay. Among such staff were included these 21 persons. They signed the Muster Roll of the Punjab National Bank and were paid by it for the month of March and according to them they became employees of the Punjab National Bank. On or about 20th of April 1951 these persons joined an All India strike staged by the employees of the Punjab National Bank. They together with the other strikers were first invited by the Bank to give up the strike and rejoin service by the 24th of April 1951. They failed to do so. Thereafter a notice was issued on them on the 4th of May 1951 terminating their services. The notice is appendix "A" to the statement of claim of the workmen. In the meantime the Labour Ministry intervened and an arrangement was arrived at between the Punjab National Bank and the Labour Ministry on or about 9th of May 1951, whereby the Punjab National Bank agreed to take back all the strikers except 150 persons whom it subsequently named and whose cases were dealt with by me in Reference No. 1. The other workmen were directed to rejoin by the 5th of June 1951. On the 23rd of May, 1951, these persons applied for reinstatement and signed the declarations which were required to be signed in accordance with the arrangement between the Punjab National Bank and Government. The Bank, however, wrongfully refused to allow them to rejoin. These are the facts on which the 21 employees of the Bank based their case.

4. The defence taken by the Bank in its written statement briefly is as follows: When the Punjab National Bank took over certain assets and liabilities of the Bharat Bank, it did not agree to take over the staff of the Bharat Bank and was under no obligation whatsoever to take over such staff. The Punjab National Bank did not engage all the employees of the Bharat Bank at Bombay but it allowed these 21 persons who were originally working in the Bharat Bank at Bombay to continue to work in the branches taken over by the Punjab National Bank. The Punjab National Bank admits that these persons worked for the Punjab National Bank, that they signed the Muster Roll of the Punjab National Bank and that they were paid by the said Bank but it denies that they were employees of the Bank. According to the written statement cashiers, assistant cashiers and shroffs could not be appointed directly by the Bank. They had to be appointed by the contractor cashier who holds himself responsible for the good conduct and honesty of these persons and agrees to stand guarantee for them for any defalcation, misfeasance etc. As regards these 21 persons there was no such arrangement. They originally worked in the Bharat Bank as nominees of one Shri J. C. Jani, contractor cashier of the Bharat Bank, but the Punjab National Bank never appointed Shri Jani as its contractor cashier and therefore, neither Shri Jani nor his nominees were at any time employees of the Punjab National Bank. According to Pt. Somesh Chandra these persons were just allowed to continue to work in the Bank on a temporary basis and, therefore, they could not be treated as employees for any purpose whatsoever. The Bank admits that at the intervention of the Ministries of Labour and Finance the Bank agreed to take back the strikers excluding 150 persons against whom the Bank had positive objections, but in agreeing to take back the other strikers the Bank intended to take back only those strikers who were its employees and not persons who were working temporarily as these 21 persons were. In the written statement the Bank admits that it served these 21 persons with notices asking them to return and thereafter with notices terminating their services because of the failure to do so exactly the same manner as that in which it served its regular employees but it says that this was done under a misapprehension as the Bank never looked upon these persons as employees and it was, therefore, not necessary for the Bank to give them any notice terminating their services. In the written statement it is also stated that before the Conciliation Officer the Bank took up the same position that these 21 persons were not its employees and that, therefore, the Bank was under no obligation to employ them when they applied for employment on the 23rd May, 1951. It is emphasised that these persons were not intended to be included in the arrangement between the Bank and the Government whereby the Bank agreed to take back all its employees who had struck work with the exception of 150 persons.

5. One day after the case was opened after some discussion the Bank applied to amend its pleadings in a certain manner. Upon this I directed it to put in a written petition regarding what amendment it proposed to make and to supply a copy thereof to the Federation. The petition was duly made and a copy of the amendment sought for was supplied. Put shortly the Bank amended paragraph 10 of its written statement by alleging that these 21 persons were guilty of an illegal strike by reason of the fact that they went on strike during the pendency of certain proceedings under the Industrial Disputes Act, before Shri K. S. Campbell-Puri and within two months of the award made in those proceedings.

The Bank invoked the aid of section 23(b) of the Industrial Disputes Act, also stated in the proposed amendment that the strike was unjustified. Further the amendment sought to clarify paragraph 10 by stating that the arrangement between the Bank and Government to take back all strikers accept 150 persons referred only to such strikers who were employees of the Bank and not to these 21 persons who were at no time employees of the Bank but just casual workers. The Federation objected to the grant of leave to amend. After hearing the parties I decided to allow the application for amendment and gave the Federation liberty to file an additional written statement which it did. This order is Order No. 8 and was passed on 21st March 1952. It is appended to this award as Appendix "B" and shall form part of it.

6. This in short is the case of the Bank and the contention on its behalf is that these 21 persons are not entitled to any relief.

7. After hearing the parties the following issues were framed:

1. Were the 21 persons mentioned in Schedule II of the reference employees of the Punjab National Bank?
2. If so, what was the nature of their employment?
3. Where these 21 persons amongst those whom the Bank undertook with Government to take back. Can such undertaking be enforced by this Tribunal?
4. Was the strike of these 21 persons illegal?
5. To what relief, if any, are the parties entitled?

At a later stage another issue in the following terms was added:

- 4A. Have the 21 persons mentioned in Schedule II of the reference been wrongfully dismissed?

The parties agreed that these were all the issues necessary for these proceedings.

8. I shall first take up the case of the 21 employees mentioned in Schedule II of the present reference. One of them V. S. Mankame has withdrawn all claims against the Bank and has said that he would not claim against the Bank in future. This was expressed in a letter dated the 29th November 1951 sent to me. I gave him another chance by inviting him to appear before the Tribunal if he wished to do so, but he has not done so and the Federation has also abandoned his case. I, therefore, award that no relief shall be given to him.

9. There remains the case of the remaining 20 persons namely:—

1. Shri P. J. Mehta.
2. Shri J. D. Ghoda.
3. Shri N. J. Oza.
4. Shri R. B. Rawal.
5. Shri R. M. Patel.
6. Shri Shrikant Shukla.
7. Shri Ramanand Tewari.
8. Shri Kamlashankar.
9. Shri Shivmuhrat Thakur.
10. Shri J. J. Rawal.
11. Shri C. H. Shah.
12. Shri M. M. Shukla.
13. Shri N. B. Desai.
14. Shri Raminch.
15. Shri P. N. Ghanekar.
16. Shri D. B. Bhatt.
17. Shri J. D. Ghode.
18. Shri L. S. Tondulkar.
19. Shri A. M. Mehta.
20. Shri N. J. Mehta.

10. In dealing with the case of the remaining 20 persons I propose to mention certain important facts which are either admitted or established beyond all doubt. There is no controversy about the question that these 20 persons were working as assistant cashiers and hundi-presenters in the Bharat Bank at Bombay when the Punjab National Bank took over its Bombay branches. They were while working in the Bharat Bank the nominees of Shri Jani contractor cashier of the Bharat Bank. On behalf of the Punjab National Bank it is admitted that these 20 persons continued to work in the Bombay branches taken over by the Punjab National Bank from the Bharat Bank and that they signed the Muster Roll of the Punjab National Bank and were paid by it for the month of March 1951 prior to the strike. It is also admitted by the Bank that when the strike took place these 20 persons were treated in all respects exactly in the same way as the other strikers who were regular employees of the Bank, namely, they were asked by a notice to rejoin service by the 24th of April 1951 and on their not doing so they were served with notices on the 4th of May 1951, that they have "ceased to be employees of the Bank and that their services stand terminated."

11. Another admitted fact is that the Bank wrote a letter to the Minister of Finance, Shri Deshmukh, which is Ex. F. 15. In this letter Lala Yodhraj, the General of the Punjab National Bank writes to Shri Deshmukh asking the Government to fix a date within which the strikers should return. He said that his position was becoming very awkward as no date had been fixed and the strikers were not returning. As a result of this letter the final date by which the strikers had to return was fixed as the 5th of June 1951 by Government. This is proved by Ex. F. 19 a letter written by Shri K. N. Subramanian, Joint Secretary to the Government of India, Labour Department, to the Joint Secretary, All India Punjab National Bank Employees' Federation. Paragraph 2 of this letter makes it quite clear that it included the cashiers. It is also now admitted that all these 20 persons applied for reinstatement by the 23rd of May 1951. This is proved by the letter Ex. F. 3 and its enclosure Ex. F. 31 written by the General Secretary of the Punjab National Bank Employees' Union, Bombay, to the Chairman of the Punjab National Bank, and produced by the Bank at the instance of the Federation. No evidence was given to contradict the statements made in this letter and indeed it was not suggested by the Bank that the statements therein were false. It is further admitted that although these 20 persons applied for re-employment before the last date fixed, the Bank refused to take them back.

12. I have been at pains to enumerate these facts because the main ground upon which the Bank defends its refusal to take back these 20 persons is that they were not employees of the Bank. This question of fact will have to be decided first.

13. On behalf of the Federation it was argued that the above admitted facts clearly show that these 20 persons were employees of the Punjab National Bank. The Bank treated them exactly in the same way as it treated its other employees and it was not open to the Bank now to say that such treatment was due to a mistake. I have given this matter my very careful consideration as the case of these 20 persons largely hinges on this point and I have come to the conclusion that these 20 persons were employees of the Bank. I proceed to give my reasons for arriving at this conclusion. There is nothing to show that when these persons were allowed to work in the Punjab National Bank, they were informed that they were not employees but merely casual workers. There is not an iota of evidence to establish any such intimation by the Bank to these 20 persons. On the contrary I find that they were treated exactly in the same way as any other employee of the Punjab National Bank. They signed the Muster Roll of the Bank together with the other employees and they were paid together with such employees. Shri Somesh Chandra frankly admits that there is nothing to show that these persons were ever apprised of the fact that the Bank did not look upon them as its employees. I really cannot understand on what ground the Bank is now asserting that these persons were not its employees. The word "employee" has not been defined in the Industrial Disputes Act and we must, therefore, look at the ordinary dictionary meaning of the word or the general impression which the word 'employee' conveys to the mind of an ordinary man. A person employed for wages is an employee. The term employee in this connection connotes that a certain amount of control is vested in the employer over the employee. Not only is an employee to work for his employer on a wage but he has to obey the legitimate orders of his employer and to submit to a certain degree of control by him. If these elements are satisfied then the person engaged to work would be an employee of the person who engages him. I realise that mere payment to a person for service rendered does not make that person an employee. Thus a doctor or a lawyer would not in the ordinary sense of the word be considered the employee of his patient or client. The reason is that the patient or client does not control

the doctor or lawyer and the doctor or lawyer is not expected to obey the orders of his patient or client. In the present case these 20 persons taken over by the Punjab National Bank to work as cashiers and hundi-presenters were employees in every sense of the term. They were subordinate to the manager of the Bank and had to carry out his orders. They were paid wages and they had to do such work as was allotted to them. It is true that there was no written contract between them and the Punjab National Bank but a written contract is not a necessary element for the establishment of the relationship of employer and employee. A person usually does not enter into a written contract with his domestic servant, nevertheless, the domestic servant is undoubtedly an employee of the master of the House. The position may have been somewhat different if these persons were engaged by the branch managers without authority or in excess of their authority, but that is not the case. Ex. B. 33, dated the 26th February, 1951, which was put in by the Bank clearly establishes that the officers employing these persons were acting within the full scope of their authority and in accordance with the directions given to them by the General Manager. Ex. B. 33 is a circular containing directions given by Lala Yodhraj, the General Manager, to all the branches of the Punjab National Bank in connection with what should be done in connection with the taking over of the assets and liabilities of the Bharat Bank at Bombay. A page 4 of these instructions the following passage occurs:

**"Staff:** You are authorised to engage such extent of staff of Bharat Bank as you may need due to additional work. You should select deserving, loyal and efficient hands and take them in the permanent service of the Bank. Please note that all new entrants are entitled to a minimum starting salary according to the Award. Their total emoluments should not be less than what they have been drawing from Bharat Bank Limited."

Now these 20 persons were obviously engaged pursuant to these directions because no other instructions have been shown to me empowering anyone to engage the staff of the Bharat Bank by the Punjab National Bank. It is clear from the passage quoted that these persons were taken over in the permanent service of the Bank directly by its branch managers under instructions from the General Manager. In the face of these instructions it seems to me to be impossible to hold that these persons were merely casual workers. Shri Somesh Chandra contended that this paragraph regarding staff did not relate to cashiers and hundi-presenters but related only to other staff. He argues that cashiers and hundi-presenters could only be engaged permanently when guaranteed by the contractor cashier of the Bank. There is no evidence to establish this. True, normally, the cashiers staff would be appointed either by the contractor cashier or upon his recommendation and only when he guaranteed the Bank against any loss which may be occasioned by his nominees; but there is no evidence to show that this was the only or invariable method of recruiting cashiers and hundi-presenters. On the contrary the specimen of the agreement of service Ex. B. 31 put in by the Bank shows that the Bank itself may allot to an employee any duties which the Bank may consider him competent to perform. Thus if the Bank thinks that a clerk is fit to be a cashier or a hundi-presenter there is nothing to prevent the Bank making a clerk a cashier or a hundi-presenter. The consent of the contractor cashier would not be necessary. It may be that if this course is followed the contractor cashier would not be responsible for the conduct of the clerk who has been allotted this work but that is entirely a different question with which the present controversy is not concerned. The fact that these 20 persons were not guaranteed by any contractor cashier at the time of their appointment does not, in my opinion, show that they were appointed as casual workers on terms different from those of an ordinary employee. In support of the argument that these cashiers, assistant cashiers and hundi-presenters were not employees of the Bank but employees of the contractor cashier reliance was placed upon the terms of the contract between the Bank and its contractor cashier, one Gurucharan Singh, which according to the representative of the Bank clearly indicated that the cashiers, assistant cashiers and hundi-presenters guaranteed by the contractor cashier were not employees of the Bank but of the contractor cashier. The contract is Ex. B. 22. On behalf of the Federation on the other hand, it was contended that, inspite of the terms of such a contract, the cashiers, assistant cashiers and hundi-presenters were employees of the Bank and reliance for this contention was based on a decision by the Labour Appellate Tribunal in the case of United Commercial Bank Vs. Its workmen, "I.L. L. J. March, 1952, p. 393" where it was held that the cashiers, assistant cashiers and hundi-presenters nominated or recommended by the contractor cashier were employees of the Bank and not of the contractor cashier. In my opinion, this decision is not helpful in determining the question whether the 20 persons with whom I am concerned were employees of the Bank or not. In the first place the decision was based upon the special terms of the particular contract between the

United Commercial Bank and its cashier contractor. No general rule was laid down by the Appellate Tribunal that in every case a cashier, assistant cashier and hundi-presenter appointed on the nomination or recommendation of a contractor cashier is not an employee of the contractor cashier but of the Bank. Further there is an important point of distinction in the present case which renders both these arguments of no avail. In the present case these 20 persons were not recommended or nominated by any contractor cashier. They were recruited directly and independently by the Bank without the intervention of any such person. It is therefore, unnecessary for me to interpret the terms of the contract Ex. B. 22 between the Bank and its contractor cashier, Gurucharan Singh, for the purposes of determining whether these 20 persons were employees of the Bank. The decision of that question has to be based on other facts to which I have already adverted. I hold, therefore, for the reasons already given that the Federation has succeeded in establishing that these 20 persons were employees of the Bank.

14. The next point for decision is whether being employees of the Bank the latter is bound to reinstate them in view of the arrangement or agreement between the Bank and Government. As stated before the Bank agreed with Government to take back all its employees who went on strike except 150 persons against whom the Bank had special objections. The Federation points out that these 20 persons were not among those 150 persons named by the Bank and that consequently the Bank was bound to respect its arrangement with Government and reinstate them. I shall deal with each of the objections raised by the Bank to this contention.

15. Firstly, the Bank states that these 20 persons even if they were the employees of the Bank, cannot take advantage of this arrangement between the Bank and Government because that arrangement related to permanent employees and not to temporary employees. In my opinion, there is no force in this contention. I have been taken through the correspondence between the Bank and Government regarding this matter and there is nothing in the correspondence to indicate that the Bank was limiting its undertaking to reinstate permanent employees only when it agreed with Government to take back the strikers other than the 150 persons who had been excluded. Furthermore I can see no reason to hold that these 20 persons were not permanent employees. On the contrary it seems to me that they must have been engaged as permanent employees by the Branch Manager because Lala Yodhraj, the General Manager, directed the branch managers to engage such staff of the Bharat Bank as they thought suitable on a permanent basis. This is proved by the circular letter written by Lala Yodhraj to the branch managers which is Ex. B. 33. That this contention is a mere after-thought is suggested by the fact that when the other employees of the Bank were asked to return to work these persons were included in the invitation both on the first occasion, shortly after the strike and later on after the arrangement had been entered into between the Bank and Government. If these persons were not intended to be treated as all the other employees, permanent or temporary, then there would be no reason for the Bank to ask them on both these occasions to return to work. Pt. Somesh Chandra states that these invitations were issued by mistake. If that be so then the Bank should suffer for its mistake and not these 20 employees.

16. Next it is contended on behalf of the Bank that as new hands had already been taken in before the application of these 20 persons for reinstatement, the Bank was not bound to dismiss the new employees for the purpose of taking in these persons who had gone on strike. It was pointed out on behalf of the Bank that the strike was not the result of any unfair labour practice on the part of the Bank and therefore, the Bank was not in any way bound to dismiss new hands for the purpose of making room for the returning strikers. For this contention the Bank relied upon the case of "National Labour Relations Board Vs. Mackay Radio & Telegraph Co. 304-U.S. Supreme Court Reports, 82. Law. Edition, p. 333" which was quoted with approval by the Labour Appellate Tribunal in the case of "Kirkee Cantonment Board Vs. Their workmen, 1951-2-L.L.J., p. 621". In my opinion this view on the part of the Bank cannot be sustained. Lala Yodhraj wrote a letter to Shri Deshmukh, dated 23rd May 1951, which is Ex. F. 15. In this letter he makes the following statement:

"My position is extremely awkward because under the arrangement I cannot engage new hands in the place of the strikers and that I must carry on my obligations."

Thereafter he suggests that a date should be fixed by which all the strikers must join and that if any worker failed to join by that date the Bank should be under no obligation to take him back. It is clear from this letter that no new hands were taken prior to the date when these 20 persons applied for reinstatement. I may note here that they applied for reinstatement some days before the

last date fixed for such application. Furthermore in the decision mentioned above there was no undertaking given by the employers to take back anybody. In the present case there was such an undertaking given by Lala Yodhraj on behalf of the Bank to Government.

17. This takes me to the next argument urged on behalf of the Bank. Pt. Somesh Chandra stated that there was no valid or enforceable agreement between the Bank and Government but only a kind of loose understanding and he suggests that such an undertaking was not binding under the law. This argument is refuted by the terms of the letter to which I have just adverted. In that letter Lala Yodhraj says nothing about any loose arrangement between the Government and the Bank. In the first lines of letter he states as follows:

"I beg to refer you to the decision arrived at on the 19th May 1951 with regard to strike situation in the Bank. It was decided to reinstate all employees except 150 to whose reinstatement the Bank had positive objections."

In other parts of the letter he refers to this decision as a *agreement* between the Bank and Government. It is quite clear, therefore, that there was an agreement between the Bank and Government which contained a definite and specific undertaking on behalf of the Bank to reinstate strikers other than the 150 persons against whom the Bank had special **objections**.

18. In amplification of this argument Pt. Somesh Chandra stated that in any case there was no privity of contract between the Bank and these 20 persons and therefore, even if there was an agreement between the Bank and Government these 20 persons could not enforce such agreement. He added that the Federation was further debarred from asking the Tribunal to enforce this agreement because it had repudiated the agreement in a letter addressed by it to Shri Subramanian which is Ex. F. 14. It is true that there was no privity of contract between the Bank and these 20 persons regarding reinstatement but in my opinion, it would be encouraging dishonesty to allow the Bank to go back on its solemn undertaking to Government regarding this matter. I am not here sitting as a civil court deciding a case based on contract. This Tribunal is concerned with maintaining industrial harmony and industrial honesty and I consider that it would be improper for this Tribunal to pay any heed to argument which would enable an employer to go back on his undertaking although it may not have been given directly to the employee. Again the correspondence shows that both parties knew what was taking place at the different stages of the negotiations which culminated in the agreement and expressed their respective views at these different stages. Government was acting more or less as a mediator or intermediary to bring about peace between the Bank and the strikers. In such a case the undertaking given to the intermediary should be enforced as against the person giving it unless there is some good reason for not doing so. No such reason has been shown to me. As regards the question of repudiation the position of the Bank is no better. While the negotiations were going on each party was trying to get the most that it could and the Federation in order to get as much as it could was taking up an obstructive attitude and criticising every offer made by the Bank. Firstly, however, when it found that it could get no further advantage the Federation tacitly and by its conduct accepted the agreement or arrangement between the Bank and Government and acted according to its terms. In these circumstances the Bank should not be allowed to go back on its solemn pledge and act in contravention of it by refusing to employ these 20 persons who rightly relied upon the agreement and acted in accordance with the strict terms thereof.

19. The next point raised by the Bank is that the posts in respect of which these persons are seeking reinstatement are of such a nature that they cannot be filled by persons other than those guaranteed by the Bank's contractor cashier. It is stated that the contractor cashier of the Bank refuses to guarantee these persons and therefore, the Bank is helpless in the matter. I am not impressed by this argument. These persons had worked in the Bharat Bank where their conduct was guaranteed by the Bharat Bank's contractor cashier Shri Jani. Thereafter when the Punjab National Bank took over the assets of the Bharat Bank it engaged these persons in their respective posts as cashiers, assistant cashiers and hundi-presenters. At that time the Punjab National Bank did not insist on their good conduct being guaranteed by any contractor cashier. During the period of their work in the Punjab National Bank they committed no acts of misconduct. They were specially chosen as being reliable persons. There is nothing to show that while they worked in the Bharat Bank they did anything blameworthy. If the Punjab National Bank could entrust them with this work without any guarantee from a contractor cashier for the period before the strike I can see no reason why

It should now insist on a contractor cashier guaranteeing their honesty and good behaviour. As stated before these persons were selected by the Branch Managers under the directions of Lala Yodhraj who asked them to select only loyal and reliable workers. Further it seems to me that if the Bank took proper steps it would find no difficulty in getting either Gurucharan Singh or some other contractor cashier to guarantee the good conduct of these 20 persons. It would be unfair to deny these persons reinstatement on the mere whim of the contractor cashier. If this were permitted then there would be no stability of service and Bank would be given the means of unfairly dismissing persons holding these positions by influencing the contractor cashier to refuse to guarantee them. Such a device should not be allowed. I am satisfied from the facts of this case that the Bank could, if it so chooses, either induce Gurucharan Singh to guarantee the conduct of these persons or get someone else to do so. For these reasons, I am of the opinion, that this objection on behalf of the Bank is not based on any solid grounds and that the Bank cannot be allowed to refuse to reinstate these persons merely because its contractor cashier chooses not to guarantee their good conduct.

20. The last ground taken on behalf of the Bank is that these persons cannot claim reinstatement because they had engaged in an illegal and unjustifiable strike. Assuming that the strike was illegal and unjustifiable, I am of the opinion, that this objection cannot prevail because in its agreement with Government the Bank made no distinction of any kind between these 20 persons and the others it had undertaken to take back. It undertook to take all of them back and it cannot now be allowed to resile from this undertaking. I may mention incidentally in this connection that all the persons that the Bank had agreed to take back including these 20 persons were, to use an expressive, if inelegant phrase, "tarred with the same brush". All of them were equally guilty as I shall presently show of an illegal and unjustifiable strike which disqualifies them from re-employment or reinstatement yet the Bank agreed to take them back. It cannot, therefore, be allowed to resile from this agreement and discriminate against these 20 persons on these grounds.

It is really unnecessary, therefore, for me to decide whether the strike was illegal or not but as that point has been raised and as there has been considerable argument on the question of illegality I propose to give my decision on the question whether the strike was illegal or not. The point of unjustifiability was not canvassed with any great insistence and having regard to the facts of the case it is unnecessary for me to deal with it at length. All I need say is that I hold the view that the strike was also unjustifiable. Upon the evidence before me it is clear that the strike took place because one employee Sabharwal was suspended for going on leave and continuing to stay on leave without permission. An enquiry upon a charge sheet was started against him and he was suspended pending such enquiry. Upon this the strike started. It was in my opinion, unjustifiable; but for the reasons given above I am of opinion, that the Bank cannot be permitted to isolate these 20 persons from reinstatement.

21. The Bank's case as regards illegality is that these persons went on strike during the pendency of proceedings between the Bank and its workmen and within two months after the conclusion of such proceedings before a Tribunal presided over by Shri K. S. Campbell-Puri. Reliance is placed by the Bank on section 23(b) of the Industrial Disputes Act. The Federation meets this argument in the following way: Firstly it says that when the dispute between the Punjab National Bank and its workmen was referred to Shri Campbell-Puri these 20 persons were working in the Bharat Bank. The Federation admits that they joined work in the Punjab National Bank during the pendency of the proceedings before Shri Campbell-Puri but it is pointed out that they joined after the reference had been made and argued that for section 23(b) to apply these persons should have been in the employment of the Punjab National Bank at the time of the reference to Shri Campbell-Puri. In my opinion, there is no substance in this argument. Section 23(b) nowhere lays down any such principle nor can any such principle be deduced from the wording of the section. A workman who joins after the reference of a dispute between an employer and his workman to a Tribunal, would be guilty of an illegal strike if he went on strike during the pendency of those proceedings and within two months after the conclusion of the proceedings. Section 23(b) clearly says that a person would be guilty of an illegal strike if he goes on strike at any time during the pendency of proceedings before a Tribunal and within two months after the conclusion of such proceedings; it does not lay down any pre-requisite that such person should have been employed in the industry at the time of the reference of the dispute to the Tribunal. These persons were workmen of the Punjab National Bank during the pendency of the proceedings before Shri Campbell-Puri and within two months after the conclusion of those proceedings and

they went on strike within that period, although they may not have been employees of the Punjab National Bank when the proceedings commenced, nevertheless, they were guilty of indulging in an illegal strike as section 23(b) applies to them.

22. Next it was argued by the Federation that there were no proceedings before Shri Campbell-Puri regarding the Bombay City branches of the Punjab National Bank and that, therefore, section 23(b) had no application. Reliance for this argument was placed on the case of ~~Pravat~~ Kumarkar & Others Vs. William Trevelyan Curties Parker and another 54-Calcutta Weekly Notes, p. 84", wherein it was said that the persons accused of an illegal strike must belong to the same establishment as that in which the strike being dealt with in the prior proceedings of the Tribunal were concerned. It was argued that the proceedings with which the Campbell-Puri Tribunal was concerned did not relate to any strike in the Bombay City branches of the Punjab National Bank in which these persons were working and that, therefore, section 23(b) had no application. On behalf of the Bank Pt. Somesh Chandra pointed out that this statement of the Federation was quite incorrect. He referred to the award of Shri Campbell-Puri and from it showed that one Kapoor was implicated in the proceedings before Shri Campbell-Puri. Next he showed from the written statement of Kapoor and from certain other documents namely Exs. B. 35 to B. 38 that Kapoor was working in one of the Bombay City branches of the Punjab National Bank when the proceedings before Shri Campbell-Puri took place and that he was involved in those proceedings because of a strike in the Bombay City branches. These documents show that the Bombay City branches of the Punjab National Bank were involved in the proceedings before Shri Campbell-Puri and, therefore, section 23(b) would apply to the strike of these 20 persons who were working in the Bombay branches. I, therefore, hold that the strike was an illegal one but as I have pointed out above the Bank cannot be allowed to refuse to re-employ these persons on this ground because it had agreed to re-employ all strikers not excluding these 20 persons who were equally guilty of the illegal strike if they applied for re-employment within a specific period which these 20 persons did.

23. These are all the points which were argued before me and I am of the opinion that these 20 persons have been wrongfully refused re-employment. I, therefore, direct that they be reinstated within one week of the publication of the award and that they be paid their usual wages and such allowances etc. from the date of their strike to the date of reinstatement, as they would have received had there been no strike. Having held that the strike was illegal and unjustifiable I cannot say in answer to point No. 1 of Schedule I of this reference that the dismissal was wrongful; but for the reasons given above I hold that the refusal to re-employ these persons was wrongful. What these persons are being awarded as pay, allowances etc. are not by way of compensation for wrongful dismissal; they merely constitute what the Bank agreed to give them and the other strikers on reinstatement.

24. I now come to the third item of Schedule I. This item is an off shoot of reference S.R.O. 1010, dated the 2nd July, 1951, which I treated as reference No. 1 and in which I made my award on 9th February 1952. That award was published on 11th February 1952 by Government. In that reference the Tribunal was not empowered to deal with the question of pay and allowances of the 150 persons named in Schedule II of that reference for the period prior to the date of the strike which took place on the 17th of April 1951, and on certain other dates shortly following.

25. In my award in that reference I refused to reinstate the 150 persons mentioned in the reference. I, however, gave the Bank certain directions regarding payments to be made to these 150 persons. I quote those directions below:

"I, therefore, direct the Bank to pay to these 150 persons half of what they would have earned from the Bank had they been in service throughout the period of strike. This amount shall not only include half their salaries but also half of any other amount what would have been paid to them as bonus etc. The amount should be paid for the period from which payments were stopped to the date of the publication of this award and it shall become payable within ten days of such publication."

26. The question which I have now to determine is whether these 150 persons should receive their salary, allowances etc. for that portion of the month of April, 1951 which preceded the date of the strike. On behalf of the Bank reliance is placed on the contract of service between the Bank and its employees and the

Provident Fund Deed. The contract is Ex. B. 31. Para. 4(a) is in the following terms:

"4. *Termination*: (a) the Employees will be entitled to resign the service of the Bank on giving one month's notice to the Bank, but if the employee quits service without giving such notice he shall forfeit his one month's pay, and shall also in addition be liable for any loss or damage that the Bank may suffer on account of his quitting service without any notice."

The reciprocal para. binding the Bank is para. 4(b) and is as follows:

"The Bank will also be entitled to dispense with the Employee's services on giving him one month's notice and if the Bank dispenses with the services of the employee forthwith without any such notice the Employee will be entitled only to one month's substantive salary payable to him in lieu of notice."

The Bank's contention is that the agreement is eminently fair as it penalises both sides for any arbitrary conduct leading to cessation of service and that, therefore, this Tribunal should not disregard these terms of the contract of service when deciding whether these 150 persons who went on an illegal strike should be paid for work done before the strike. Next it is contended that as no sum is payable to the 150 persons as salaries for this period there can be no question of the Bank contributing anything to the provident fund as the payment by it to the fund is contingent upon the payment by the workers of an equal amount from their salaries.

27. On behalf of the Federation the argument is two-fold. Firstly it is argued that the employees did not quit service but went on strike and that as strikes constitute one of the methods allowable by Industrial law to enforce demands of workmen, the provisions referred to by the Bank in the agreement and Provident Fund Trust Deed cannot be enforced. The next line of argument is that, as this Tribunal in Reference No. 1 directed the Bank to pay these 150 employees certain sums of money for the period after the commencement of the strike during which not only did they do no work for the Bank, but actively worked against it, it would be quite inconsistent for the Tribunal to refuse the employees' claim for remuneration which was earned by them by work prior to the strike.

28. It has been held by me following a large number of cases that the duties of an Industrial Tribunal are materially different from those of an ordinary civil court. An Industrial Tribunal functions for the purpose of settling disputes and introducing and maintaining a harmonious relationship between employers and employees. In doing this, it has sometimes to ride roughshod through the terms of contracts between an employer and an employee, provided it is of opinion that it is imperative or desirable to do so for the purpose of industrial harmony or in the interest of natural justice and fair play. I am, therefore, not impressed by the argument adduced on behalf of the Bank based on the terms of the contract between the Bank and its employees and on the terms of the Provident Fund Trust Deed. I should not be understood to say that these terms are essentially unfair. Under normal circumstances, such terms serve a useful purpose but at times of stress when an industry is exposed to conflict which would impair the good relationship between employer and employee and the development of the industry, means must be sought outside written contracts to preserve industrial peace and harmony based on natural justice. While a Tribunal is not to ignore contracts it is not bound like an ordinary court to enforce their terms strictly according to law. It is free to modify the terms and in extreme case even to ignore them altogether.

29. I may also mention here that I am not impressed by the technical objection raised by the Federation that going on strike does not amount to such cessation of service as would attract the penal provisions contained in the agreement between the Bank and its employees. If this were an ordinary court of law, I would hold that those provisions were attracted and that the employees were not entitled to get any pay or emoluments for even that part of April which was prior to the strike. I am of opinion, however, that the latter part of the argument urged on behalf of the employees is sound and that it would be inconsistent for me to disallow the employees their dues for the pre-strike period. Consistency has been described as the quality of fools and also as the hobgoblin of little minds. I shall risk taking upon myself the stigma attaching itself to this quality and be consistent. I have in my first award directed the Bank to pay these persons for the post-strike period during which they did no work for the Bank and given my reasons for doing so. Those reasons apply with greater force to the pre-strike period and I would be stultifying myself if I refused these 150 persons their dues for this period. I accordingly award that the employees mentioned in Schedule II of Reference No. 1 do get their full salaries, provident fund dues and any other

emoluments which would be payable to them for the period before the strike within one week of the publication of the award. All the parties in this reference shall bear their own costs.

This award together with its appendices is forwarded to the Government of India, Ministry of Labour, New Delhi for action under section 17 of the Industrial Disputes Act.

(Sd.) A. N. SEN,  
Chairman.

Dated the 8th May, 1952.

APPENDIX A  
REFERENCE No. 2

Order No. 5

Before opening the case Shri H. L. Puri representing the All India Punjab National Bank Employees Federation and Shri H. L. Parwana, representing the U.P. Bank Employees Union, raise an objection. Firstly, they object to the appearance of legal practitioners on behalf of the Punjab National Bank Ltd., before this Tribunal. Secondly, they object to any assistance being given by legal practitioners to the representative of the Punjab National Bank during the sittings of the Tribunal. They agree that when the Tribunal is not sitting both parties are free to consult and take the assistance of legal practitioners; but they contend strongly that in the course of the sittings neither party should be permitted to take the assistance of any legal practitioner.

As regards the first point there is no difficulty. Section 36 of the Industrial Disputes Act after the amendment makes the position quite clear. Sub-section 4 states as follows:

"In any proceedings before a Tribunal a party to a dispute may be represented by legal practitioners with the consent of the other party to the proceedings and with the leave of the Tribunal."

If, therefore, any party raises an objection to the other party being represented by a legal practitioner, the Tribunal is bound to give effect to that objection. Therefore, I direct that the Bank cannot be represented before this Tribunal by any legal practitioner.

The second point raised is somewhat more complicated. The contention on behalf of the Union and the Federation is that if legal practitioners were allowed to assist the representative of a party inspite of the objection of the other party it would amount to nullifying the effect of section 36, sub-section 4 and it would be against the intention of the legislature. In support of this contention reliance is placed on the case of "Kanpur Hosiery Workers Union Vs. J. K. Hosiery Factory, Kanpur, 1952-I-Labour Law Journal, March, page 384." This is a decision by five of the members of the Labour Appellate Tribunal of India. The facts relating to this decision briefly are these: The employers in this case wished to be represented by a legal practitioner and in order to get over the difficulty of section 36 sub-section 4, a legal practitioner was given a Power of Attorney to appear in this case. The Tribunal held that a legal practitioner did not shed his character of being a legal practitioner by accepting a Power of Attorney and that, having regard to the provisions of section 36, to allow a legal practitioner to represent a party merely on the ground that he was acting as his agent under a Power of Attorney would constitute a device to circumvent the provisions of the Act.

On behalf of the Bank Pt. Somesh Chandra contended that the arguments on this point urged on behalf of the Federation and the Union were unsound. He also pointed out that the case relied upon had really no application to the circumstances of the present case. His arguments briefly may be put thus: "Nowhere in the Act does the legislature provide that a representative of a party should not get the assistance of a legal practitioner. Where the words of Act are clear, there is no scope for speculation regarding the intention of the legislature. The intention of the legislature is that which is expressed in the words of the enactment and there is nothing in the enactment which says that the assistance of legal practitioners cannot be taken either outside the room where the Tribunal is sitting or within it." This is in short his argument. I now propose to give my views on the matter. An Act must be construed strictly according to its terms. Where the terms are clear there can be no scope for speculation regarding any matter. The intention of the legislature is the intention expressed by the words of the statute. This is a well known rule regarding interpretation of statutes. It is not

for any court or similar body to try and glean an ulterior intention where the words of the statute are perfectly clear. The statute says that no party shall be represented before an Industrial Tribunal by a legal practitioner without the consent of both parties and the permission of the Tribunal, nothing further is said in it. It is, therefore, open to the parties to get such legal assistance as it can from a legal practitioner in any way they can so long as they do not offend against the statute; indeed it seems to me that legal assistance is very necessary in dealing with the matters provided for in the Industrial Disputes Act. As has been stated by Shri S. K. Haldar, I.C.S., in his treatise on the Act "though the present Industrial Disputes Act consists of forty sections only, yet the number of sections is by no means any measure of the complexity of the Act. Tribunals will surely welcome the help and assistance of learned lawyers when some specially complicated problem is involved. Laymen, however, competent, may not render the same degree of assistance as lawyers". This is the comment made by the learned author as regards section 36 and with very great respect I am in entire agreement with the views expressed by him. The Act often presents many difficulties which can best be solved by persons trained in the law. Industrial law is new to this country and in order to administer such law efficiently reference has often to be made to the decisions of industrial cases in America and England where industrial law has been administered for a much longer period. Considerable light can be had from these cases. It would be idle to expect laymen to be acquainted with such cases or to present them before an Industrial Tribunal in this country. Again though the Industrial Disputes Act has come into existence a short time ago there has been a mass of cases tried by Industrial Tribunals and similar bodies and the decisions of these bodies have been reported in several journals. It would be idle to expect laymen to read these journals and to place the decisions contained therein before authorities deciding Industrial Disputes. By reason of the provisions of section 36 the authorities deciding industrial dispute have been deprived of much assistance. I say this with very great respect. Be that as it may, I am bound to obey implicitly the law as laid down by the legislature, but I find nothing therein which prohibits the representative of a party from being assisted by a legal practitioner. All that is prohibited is the representation of parties by legal practitioners. So long as there is no such representation the law is being fully complied with. There is nothing to prevent a legal practitioner watching proceedings in the room in which they are being held and in assisting the representative of a party with suggestion or hints so long as such assistance does not amount to interruption of the proceedings. That is a matter which must be left to be regulated by the authority presiding over the proceedings. I may refer to certain analogous circumstances which apply to proceedings before the regular courts of law. In the Calcutta High Court on its original side suits may be conducted in court only by Advocates entitled to practise on the original side of the High Court. Solicitors and other lawyers who are not so qualified are not permitted to address the court. The same procedure applies to motions which are heard by the court. Nevertheless, solicitors and other lawyers are permitted to be present in court to instruct counsel addressing the court and to render him such assistance as he requires. In the same way I do not see why legal practitioners should not be allowed to remain in the room in which the proceedings of the Tribunal are being carried on so as to assist the representatives of the parties in presenting their case before the Tribunal. I hold, therefore, that either party may have legal practitioners present in this room to render them such assistance as they require. I would warn them, however, that the giving of such assistance must not interrupt the proceedings of the Tribunal in any way.

(Sd.) A. N. SEN,  
Chairman.

Dated the 18th March 1952.

#### APPENDIX B

#### REFERENCE NO. 2

#### Order No. 8.

This is an application by the Bank for amending its pleadings. A copy of the application was served on the opposite party yesterday the 20th of March, 1952 and the opposite party filed an objection thereto. Today was fixed for hearing the matter. I have heard both parties at considerable length. The Bank has put in a reply to the objection filed on behalf of the employees. Much need not be said about this matter. I shall give a short account of the facts which have led to this application. After the representative of the workmen had opened their case the Bank was asked to make a statement of its case. In the course of such statement certain points were urged by Pt. Somesh Chandra which were not in the written

statement and certain points though indicated in the written statement were not clearly stated. Upon this being pointed out Pt. Somesh Chandra said he would apply for amendment of the pleadings to set matters right and to clarify the points. Upon this he was asked to put in a written petition regarding what amendment he proposed to make and to supply a copy thereof to the other side. This has been done. I have been through the application, the objection and the reply thereto. The main objection urged on behalf of the employees is that the application for amendment was made at a very late stage and that it is *mala fide*. These were the points which were stressed during the course of the arguments today. Other points have been stated in the written objection with which I shall presently deal. As regards the question of delay I am of the opinion that there has been no such delay as would justify a refusal of leave to amend. It is well known that leave to amend should be freely given when it is necessary for the purpose of doing full justice between the parties and such leave has been given not only when the case is being originally heard but it has also been given by the Privy Council at the stage of appeal. The duty of the court is to give parties a full opportunity of placing their cases before it and to do justice. Mere technicality should not be permitted when it impedes the administration of justice. This principle applies with greater force to a Tribunal of this description where the provisions of the Code and other adjective law do not apply in full force. This Tribunal is concerned with settling industrial disputes in accordance with the principles of natural justice. I would be entirely wrong if I shut out parties from placing all their materials before me on grounds of technicality. As regards the allegation that the application for amendment is *mala fide*, I am of the opinion, that it is based on an entire misapprehension. It is argued that a decision of mine recently passed in a reference in which these parties involved is being taken advantage of by the Bank. In that decision I held that the strike was illegal and that on that amongst other grounds there should be no order for reinstatement of the persons involved in that dispute. It is argued that the view of law taken by me in that case is now being urged before me by introducing an amendment of the pleadings. That, it is said, is a *mala fide* action. The contention is absurd. Parties are fully at liberty to support their case by decisions passed before conclusion of their case and if there is any decision which helps the party he is fully at liberty to take advantage of it and such conduct can in no way be considered as *mala fide*. From the written objection it seems that the representative of the workmen is under the misapprehension that the court or the Tribunal should not suggest the nature of amendments which a party should make. This is entirely wrong, especially in proceedings of this description where lawyers are not permitted to appear. It is the duty of the Officer presiding at the Tribunal to help the parties with suggestions on matters of fact as well as of law. In paragraph 7 of their objection to the application for amendment a statement is made which seems to me entirely irrelevant to the question under consideration. As it has been made and as it seems to me indicate some grievance on the part of the employees' Federation, I think I should say something about it otherwise I would have ignored it. Documents were put in the course of the opening which at the suggestion of this Tribunal were admitted by the Bank. The Bank when opening its case wished to put in a printed copy of a registered agreement between the Bank and the Bharat Bank I asked the representative of the employees whether they would admit this printed copy but they refused to do so. I explained to them that the procedure in most courts was that where there was no suspicion that a document was forged or fabricated it was customary for parties to admit it. When the employees were represented by Shri A. S. R. Chari, Barrister, in the former proceedings a large number of documents of this nature were admitted by both sides. This saved considerable time. The representative of the employees, however, took up a very technical attitude and wished that this registered document should be formally proved. I, therefore, ordered that it should be proved and told the representative of the Bank as to how it should be proved. It seems to me to be absurd that the representative of the employees should have any grievance on this score. If any one has a grievance it would be the Bank because of the insistence of the representative of the employees on sheer technicality.

I am of the opinion that there can be no objection to the amendments prayed for and they are allowed. The representative of the workmen may file any additional written statement in answer to the points raised by the amendment as they may think fit by the 24th of March, 1952.

Dated the 21st March, 1952.

(Sd.) A. N. SEN,  
Chairman.

[No. LR-90(107).]  
N. C. KUPPUSWAMI, Under Secy.

New Delhi, the 21st May 1952

S.R.O. 965.—In exercise of the powers conferred by section 73-A of the Employees' State Insurance Act, 1948, (XXXIV of 1948), the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the Ministry of Labour No. S. R. O. 279, dated the 6th February, 1952, namely:—

In the said notification, after the proviso to paragraph 2 the following further proviso shall be inserted, namely:—

"Provided further that in the case of a wage period commencing before and ending on or after the 24th February, 1952, the amount to be included in the total wage bill shall be such amount as bears to the wages for such wage period the same proportion which the number of days included in the period from the 24th February, 1952, to the last day of such wage period, (both days inclusive) bears to the total number of days in such wage period."

[No. SS. 121(60).]

#### ORDER

New Delhi, the 23rd May 1952

S.R.O. 966.—Whereas the Central Government is of opinion that an Industrial dispute exists between the employers in relation to Lodna Colliery and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal at Dhanbad, constituted under section 7 of the said Act.

#### SCHEDULE

1. Whether the discharge of Wali Mohammad and Waai Mohammad is justified and if not, whether they should be reinstated with effect from the date of their discharge.
2. Whether the dismissal of Rauf Khan is justified; if not, whether he should be reinstated with effect from the date of his discharge.
3. Whether the management is justified in dispensing with the services of the three Kamins viz. Sohgwa, Phulia and Kapurwa; if not, whether they should be reinstated from the date of their discharge; and
4. Whether payment for lead and lift should be paid in accordance with the Conciliation Board's recommendations and the Joshi Agreement as is the practice in the neighbouring collieries.

[No. LR-2(367).]

S. NEELAKANTAM, Dy. Secy.

New Delhi, the 27th May 1952

S.R.O. 967.—In exercise of the powers conferred by sub-section (3) of section 1 of the Mines Act, 1952 (XXXV of 1952), the Central Government hereby appoints 1st July 1952 as the date on which the said Act in its entirety shall come into force in the whole of India except the State of Jammu and Kashmir.

[No. M-41(10)/82.]

**S.R.O. 968.**—In exercise of the powers conferred by section 4 of the Mica Mines Labour Welfare Fund Act, 1948 (XXII of 1948), read with clause (b) of sub-rule (3) of rule 3 of the Mica Mines Labour Welfare Fund Rules, 1948, the Central Government hereby appoints Shri Ramesh Chandra Vyas, as the Vice-Chairman of the Advisory Committee for the State of Rajasthan constituted by the notification of the Government of India in the Ministry of Labour No. S.R.O. 247, dated the 30th January 1952.

[No. M-28(8)/52.]

P. N. SHARMA, Under Secy.